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**Submitted via Federal eRulemaking Portal at <http://www.regulations.gov>  
Copy via Electronic Mail**

March 16, 2021

Mr. Charles W. Maguire, Director  
Water Quality Protection Division (6WD)  
U. S. Environmental Protection Agency  
1201 Elm Street, Suite 500  
Dallas, Texas 75202  
[Maguire.charles@epa.gov](mailto:Maguire.charles@epa.gov)

**Re: Notice of Draft Permit and Request for Public Comment; National Pollutant Discharge Elimination System Pesticide General Permit; Docket ID No. EPA-HQ-OW-2020-0005**

Dear Director Maguire:

The New Mexico Environment Department (NMED) Surface Water Quality Bureau (SWQB) reviewed the draft Pesticide General Permit (PGP) (published in the Federal Register on January 15, 2021) that will apply to the use of pesticides in or near water within the State of New Mexico and submits the following comments to the U.S. Environmental Protection Agency (USEPA).

NMED requests USEPA make the following changes before issuing the final PGP.

- 1) In order to provide states and tribes with more current and reliable data to inform priorities for water quality monitoring programs:
  - a. Modify the NOI to obtain additional information on the receiving waters. While general information on waters in Pest Management Areas would be acceptable under Item 6 of the draft NOI, NMED argues that a list of specific waters in the NOI is needed to provide appropriate oversight of permittee activities. More specifically, a list of all affected 8-digit hydrologic unit codes in each NOI would assist in state and tribal water pollution control programs.
  - b. Require decision maker's Annual Reports to include information on the active ingredients or degradates of active pesticide ingredients with National Recommended Water Quality Criteria (e.g., Aquatic Life Criteria, Human Health Criteria or Organoleptic Effects Criteria) to assist in monitoring and assessment activities under Clean Water Act water pollution control programs.

- 2) Revise Part 6.0, Corrective Action, of the draft PGP to require permittees to submit applicable Safety Data Sheets (SDS) in written Adverse Incidents and Reportable Spills and Leaks reports. Recordkeeping with information from applicable SDSs is a condition for treatment chemicals under the 2017 Construction General Permit (CGP) that USEPA administers in New Mexico.

NMED conveys the following requests related to USEPA's implementation of the final PGP to improve transparency, access to information and accountability of the regulated activities.

- 1) Continue to make Notices of Intent (NOIs), Annual Reports and Notices of Termination (NOTs) submitted by decision-maker permittees under USEPA's 2011, 2016, and final 2021 PGP publicly available on-line at the same time documents are submitted to or accepted by USEPA. USEPA's website for electronic NOI search is currently available at <https://www.epa.gov/npdes/pesticide-permitting-gpg-enoi>.
- 2) Provide the public a link to the Pesticide Chemical Search and/or Pesticide Product Label System information for each pesticide that the permittee submits and lists on the on-line Annual Report. More information on USEPA's online query is located at <https://www.epa.gov/ingredients-used-pesticide-products/how-search-information-about-pesticide-ingredients-and-labels>. Alternatively, if this information cannot be maintained on the on-line Annual Report, EPA should create more prominent links on PGP websites for members of the public to easily navigate to USEPA's Pesticide Chemical Search and Pesticide Product Label System online queries.
- 3) Notify the public of the availability of each NOI submitted under the final PGP, including updates or modifications, throughout the permit term, similar to notifications of each NOI submitted for the New Mexico Concentration Animal Feeding Operation General Permit. For example, a public notice should be placed on the USEPA website located at <https://www.epa.gov/publicnotices>, which includes an online query and Really Simple Syndication (RSS) feed subscription.
- 4) Make each required Pesticide Discharge Management Plan (PDMP) publicly available by either having an applicant or permittee 1) attach the PDMP to the NOI; 2) include a Uniform Resource Locator (URL) in the NOI; or 3) provide pertinent information from the PDMP on the NOI. Providing similar information to the public in this manner is a requirement in other National Pollutant Discharge Elimination System (NPDES) general permits that USEPA administers in New Mexico.
- 5) Maintain PGP enforcement and compliance history online in a similar or equivalent manner as other permits. For example, USEPA's Enforcement and Compliance History (ECHO) website (<https://echo.epa.gov/>) should be updated to provide compliance information related to the PGP and USEPA should work to integrate information located across its multiple webpages to increase ease of access by the public.
- 6) Provide online public access to written Adverse Incident and Reportable Spills and Leak reports that are required in the draft PGP (Part 6.0 Corrective Action). For example, written reports should be added to USEPA's website for electronic NOI search currently available at <https://www.epa.gov/npdes/pesticide-permitting-gpg-enoi>.

To discuss these comments with NMED, please contact Sarah Holcomb, Point Source Regulation Section Manager, at [sarah.holcomb@state.nm.us](mailto:sarah.holcomb@state.nm.us).

Sincerely,

**Rebecca Roose** Digitally signed by Rebecca Roose  
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Rebecca Roose  
Water Protection Division Director

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